

March 27-28, 2013, Draft Minutes

South Dakota Board of Medical and Osteopathic Examiners – Regular Board Meeting

Board Members Present: Kevin Bjordahl, MD; Walter Carlson, MD; Mary Carpenter, MD; Mr. Bernie Christenson; David Erickson, MD; Brent Lindbloom, DO; Jeffrey Murray, MD; James Reynolds, MD

Board Member Absent: Mr. Patrick Burchill

Board Staff Present: Margaret Hansen, PA-C; Ms. Kristi Golden; Mr. Ted Huss; Ms. Jane Phalen; Ms. Randi Sterling

Counsel Present: Roxanne Giedd, Board; William Golden, Staff

Dr. Mary Carpenter, acting President of the Board, called the meeting to order at 9:30 am. Roll was called, a quorum was established. Dr. Carpenter welcomed and congratulated newly appointed board member Dr. Kevin Bjordahl and re-appointed board member Dr. David Erickson. Both appointments were announced January 30, 2013.

A motion was made to approve the agenda (Christenson/unanimous vote).

A motion was made at 9:35 am to enter into executive session pursuant to SDCL 1-25-2(1) and SDCL 1-25-2(3) (Dr. Reynolds/Unanimous vote).

The public meeting resumed as Dr. Carpenter called the meeting to order at 1:20 pm.

The Board staff offered a presentation to the Board regarding the administrative processes for applications, complaints, and reporting requirements for board actions.

A motion was made to form a committee with the acting president, the board and staff counsels to assist the board staff in preparing a docketing system that could be used by Board members to track the status and time frame for complaints and investigations (Carlson/Unanimous vote).

A motion was made directing staff to explore and present ethics statements for the licensure groups that the Board regulates (Carlson/Unanimous vote). Dr. Murray and Dr. Carlson volunteered to assist staff.

The Board directed staff, with the assistance of Dr. Murray and Dr. Carlson, to develop proposals to address a request from an educational program for admission guidelines.

License portability between states and the possibilities for a licensure compact for physicians as well as recent articles about national doctor shortages and scope of practice expansions were discussed.

The Federation of State Medical Boards (FSMB) model policy for Addiction Treatment in the Medical Office and the model policy for the Treatment of Pain were discussed.

The FSMB framework for a minimal dataset (MDS) report was discussed, and Dr. Bjordahl offered to assist staff with a MDS.

A motion was made directing Board counsel to write an article describing the laws and rules that govern the Board operations for South Dakota Medicine, the publication of the South Dakota State Medical Association (Murray/Unanimous vote).

A motion to authorize the president and Board counsel to handle pre-hearing scheduling, motions and docket call (Carlson/unanimous vote).

A motion was made for the board and staff counsels to attend the FSMB Board Attorney Seminar and Workshop in the fall (Christenson/unanimous vote).

Mr. Christenson instructed the staff to provide a listing of the dates when Board members will be termed out and the eligibility for term limits. The Department of Health was queried and the Board members were informed of the following:

Term end date for October 30, 2013

Burchill

Carpenter

Reynolds

Term end date for October 30, 2014

Christenson

Murray

Lindbloom

Carlson

Term end date for October 30, 2015

Erickson

Bjordahl

At 3:36 pm March 27, the meeting was continued until the following day, March 28, 2013.

Dr. Mary Carpenter, acting President of the Board reconvened the meeting to order at 9:30 am on March 28, 2013. Roll was called, a quorum was established.

A motion was made to approve the minutes from the November 28, 2012 Board meeting (Christenson/unanimous vote). A motion was made to approve the minutes from the December 13, 2012 Telephonic Board meeting (Erickson/unanimous vote).

The executive director presented a report on the following items: the disclosure questions, which were reviewed by the Board at the 2012 meetings in March, June, and September, and were approved at the November 2012 meeting, are being implemented; a Pediatric Grand Rounds on Professionalism presentation was made in March with an Internal Medicine Grand

Rounds on Professionalism scheduled to be presented in August; the minimal data set (MDS) report from the Federation of States Medical Board (FSMB) workgroup; the number of licenses issued has increased 120% since 2005; and law for Resident Licenses will take effect on July 1, 2013.

A motion was made at 9:45 am to enter into executive session pursuant to SDCL 1-25-2(1) and SDCL 1-25-2(3) (Erickson/unanimous vote).

The public meeting resumed as Dr. Carpenter called the meeting to order at 10:00 am.

Guests Dr. Thomas Dean and Dr. Robert Talley appeared and spoke about Board procedures.

In the matter of the petition regarding Brian Gauer, for failure to disclose criminal charges, and Mr. Gauer being provided with a Notice of Hearing but choosing not to appear, a motion was made to accept the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommendation for suspension of Mr. Gauer's physical therapy license for five (5) years (Carlson/ unanimous vote).

In the matter of the petition for reprimand regarding Loren Vilhauer, for engaging in practice without a physician assistant practice agreement, the hearing examiner announced that ex parte communication had occurred prior to the Board meeting. The Board members were queried to determine whether they were inappropriately contacted. A motion was made to dismiss the petition but no vote was taken (Christenson/no vote). A motion was made to enter executive session pursuant to SDCL 1-25-2(3) to consult with legal counsel (Reynolds/unanimous vote). The public meeting resumed as Dr. Carpenter called the meeting to order. A new motion replacing his previous motion was made to issue Mr. Vilhauer a letter of concern and to enter Findings of Fact and Conclusions of Law (Christenson/unanimous vote). Mr. Vilhauer's attorneys were instructed by the hearing examiner to prepare the Findings of Fact and Conclusions of Law. Mr. Burchill, the Board member in this case, was not present at the meeting for discussion or voting.

Ms. Gloria Damgaard and Ms. Linda Young from the South Dakota Board of Nursing appeared with Laurie Gromer, CNP. Ms. Gromer requested a modification to the collaborative agreement in order to perform nasal pharyngoscopy, nasal endoscopy, and flexible transnasal laryngoscopy in the outpatient office setting with Dr. John Lee and Dr. William Spanos. A motion to approve the request to perform these procedures (Reynolds/unanimous vote).

A motion was made to approve the Stipulation and Agreement of Ms. Rebecca Backous, RCP (Carlson/ unanimous vote). Dr. Lindbloom, the Board member in this matter, did not participate in discussion and abstained from the vote.

A motion was made to approve the Consent Agreement for the Voluntary Surrender of EMT I/85 license of Ms. Sherri McDermet (Erickson/ unanimous vote). Dr. Murray, the Board member in this matter, did not participate in discussion and abstained from the vote.

A motion was made to approve the listing of new licenses, permits, certificates and registrations (Carlson/unanimous vote).

The financial report was reviewed and accepted.

A motion was made to approve the definition of a Protocol (Murray/unanimous vote).

The Board continued the hearing for the petition for declaratory ruling on Immunizations.

The Board directed staff to bring a petition for declaratory ruling on vitamin B-12 shots.

The Board entered into closed session pursuant to SDCL 36-4-31.5 for physician hearings which are closed unless the physician waives privilege.

The public meeting resumed as Dr. Carpenter called the meeting to order.

Dr. Robert Hubley petitioned to remove restrictions from his medical license. A motion was made to remove the restrictions and return the license to unrestricted status (Carlson/unanimous vote). Dr. Carpenter, the Board member in this matter, did not participate in discussion and abstained from the vote. The hearing examiner directed Dr. Hubley's attorney and staff counsel to prepare the order.

In the matter of the petition to revoke Dr. Edward Picardi's medical license due to criminal convictions, a motion was made to enter into executive session pursuant to SDCL 1-25-2(3) to consult with counsel (Bjordahl/unanimous vote). The public meeting resumed as Dr. Carpenter called the meeting to order. A motion was made to immediately revoke Dr. Picardi's medical license (Christenson/ unanimous vote). Dr. Carlson, the Board member in this matter, did not participate in discussion and abstained from the vote.

The matter of Dr. William Lee's petition to remove restrictions from his medical license was continued.

In the matter of the petition regarding Dr. Jonathan Oppenheimer due to disciplinary action by another state licensing authority, a motion was made to approve the Consent Agreement with Reprimand (Murray/ unanimous vote). Dr. Carlson, the Board member in this matter, did not participate in discussion and abstained from the vote.

A motion was made to approve Dr. John Lewis's petition for waiver of threshold requirements and issue the medical license based upon ABMS Board Certification (Erickson/unanimous vote).

A motion was made to approve Dr. Aruna Dash's petition for waiver of threshold requirements and issue the medical license based upon ABMS Board Certification (Erickson/unanimous vote).

A motion was made to approve Dr. Karim Nagra's petition for waiver of threshold requirements and issue the medical license based upon ABMS Board Certification (Erickson/unanimous vote).

A motion was made to approve Dr. David Maziarz's petition for waiver of threshold requirements and issue the medical license based upon ABMS Board Certification (Erickson/unanimous vote).

A motion was made to approve Dr. Gabriel El-Kass's petition for waiver of threshold requirements and issue the medical license based upon ABMS Board Certification (Erickson/unanimous vote).

Maria Eining, director of the South Dakota Health Professional Assistance Program provided information on the law to be effective July 1, 2013, which provides authority to work with primary mental health issues.

The nominations of Mary Zwart and Josh Ellis for the Athletic Trainer Advisory Committee were approved (Lindbloom/unanimous vote).

A motion was made to approve Dr. Walter Carlson as acting vice president of the Board (Bjordahl/unanimous vote).

Evaluations for Board officers, members and staff were discussed. A motion was made for follow-up evaluation (Christenson/unanimous vote). A motion was made to develop an evaluation form for the Board officers and members (Erickson/unanimous vote).

The next meeting is Wednesday, June 26, 2013.

There being no further business, the meeting adjourned at 2:35.